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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)

KEY COMMUNICATIONS, LLC, and)
KEYSTONE WIRELESS, LLC)

CC Docket No. 94-102

For Waiver of Deadlines for Implementation)
of Phase II E911)

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To: The Secretary, Federal Communications Commission

Federal Communications Commission
Office of Secretary

**SECOND SUPPLEMENT TO
PETITION FOR WAIVER OF DEADLINES
FOR IMPLEMENTATION OF PHASE II E911**

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**SECOND SUPPLEMENT TO
PETITION FOR WAIVER OF DEADLINES
FOR IMPLEMENTATION OF PHASE II E911**

Key Communications, LLC (“Key”) and Keystone Wireless, LLC (“Keystone”) (collectively, “Petitioner-Small Carriers”), by their attorneys, hereby further supplement their August 21, 2003 “Petition for Waiver of Deadlines for Implementation of Phase II E911” (“Waiver Petition”) with information on their progress toward implementation of Phase II E911.

BACKGROUND

In their first supplement to the Waiver Petition, submitted to the Commission on December 10, 2003 (“First Supplement”), Petitioner-Small Carriers advised that they had found that Nortel was attempting to develop an alternative location technology for GSM cellular systems, which alternative technology might provide an E911 Phase II solution for rural markets – specifically, Nortel’s hybrid network/handset-based technology, called “Timing Advance/Network Measurement Report” positioning (“TA/NMR”). Implementation of TA/NMR involves two steps, the first of which is network-based and provides a level of accuracy better than Phase I, but short of Phase II. The second step, required for TA/NMR to

achieve full Phase II accuracy, involves distribution of special "assisted-GPS" ("A-GPS") handsets, which at that time were still in development and thus not available.

Nortel advised Petitioner-Small Carriers that it intended to test the A-GPS handsets during the first quarter of 2004, and this advice was reported to the Commission. Petitioner-Small Carriers also advised the Commission, in the First Supplement, that the price quote for the TA/NMR infrastructure was exceedingly high, but that Petitioner-Small Carriers were exploring the possibility of vendor financing and other financing options, including the possibility of obtaining government cost-recovery funding.

UPDATE

Nortel has advised Petitioner-Small Carriers that it did not begin testing the TA/NMR technology and the A-GPS handsets until the latter part of 2004 (as opposed to the first quarter of this year, as projected), and that it has not yet completed its tests of the A-GPS handsets. *See* attached Exhibit A, Declaration of James Williams, and attached Exhibit B, Declaration of Jim Stec. Nortel anticipates that A-GPS handsets will be available to large carriers within the first quarter of 2005, and to Tier II and Tier III carriers in the second quarter of 2005. Nevertheless, based upon past experience, A-GPS handsets likely will not be available to Tier III carriers until the third or fourth quarter of 2005, at the earliest. *Id.*

The price quote for the TA/NMR infrastructure that Nortel provided to Petitioner-Small Carriers is exceedingly high. *Id.*¹ Absent some sort of outside financing, Petitioner-Small Carriers cannot acquire this equipment/software package and remain solvent. Moreover, there is no guarantee that the infrastructure will satisfy the accuracy requirements of §20.18(h) of the Commission's rules.

^{1/} Nortel price quotes are confidential and proprietary and Petitioner-Small Carriers are bound by non-disclosure obligations to Nortel.

To date, Petitioner-Small Carriers have been unsuccessful in securing government cost-recovery funding to cover any portion of the required expenditures for the TA/NMR infrastructure. Key is continuing its efforts to obtain government cost-recovery funding. Keystone recently retained the services of Intrado to assist it in working with the local PSAPs and obtaining government cost-recovery funding.²

Assuming its accuracy and reliability prove out, Petitioner-Small Carriers continue to plan on using the TA/NMR technology as their E911 Phase II solution. It is the only location technology currently in development that supports GSM technology in rural areas³, where cell density is insufficient for triangulation techniques to function, with 95% reliability.

Please note -- Nortel will not guarantee that if Petitioner-Small Carriers fully implement the TA/NMR location technology they will meet all of the E911 Phase II accuracy requirements under §20.18(h) of the Commission's Rules. *See* Exhibits A and B. In other words, even after Petitioner-Small Carriers fully implement the TA/NMR solution – *i.e.*, the network-based portion and the A-GPS handset portion – they may not reach the requisite 67% and 95% accuracy

^{2/} Keystone has received only one Phase II request from a PSAP since the submission of the First Supplement. Key has received four more Phase II requests, in addition to the two mentioned in the First Supplement. Petitioner-Small Carriers have had productive dialogues and developed good relationships with the PSAPs in their respective market areas. Until recently, all of the PSAPs appeared to understand the problems facing Petitioner-Small Carriers respecting E911 Phase II implementation, and none expressed any concerns with Petitioner-Small Carriers' proposal to implement the two-step TA/NMR solution. The PSAP that recently submitted the Phase II request to Keystone was demanding immediate implementation. Keystone has explained to that PSAP that Phase II implementation is physically impossible at this time. (A network-only solution would fail due to insufficient cell overlap, and, as noted, there is no GSM handset solution.) By retaining the services of Intrado and having Intrado work with this PSAP, Keystone hopes to be able to amicably resolve this matter with the PSAP.

^{3/} TeleCommunications Systems, Inc.'s new E911 Phase II solution supports CDMA technology only.

requirements prescribed by §20.18(h)(1) or (2)⁴ of the rules because they are operating in very rural markets.

Finally, please note that Petitioner-Small Carriers are doing everything that larger carriers do to comply with §20.18(h) of the rules. A large nationwide carrier serves both densely populated areas and rural areas. Such a carrier can always exceed the 67% and 95% accuracy thresholds in the more densely populated areas, while achieving much lower accuracy (often only a 75-80% accuracy level) in the rural areas it serves because of low population density, topography and cell spacing. *See* Exhibits A and B. Unlike Tier III rural carriers, however, a large nationwide carrier would be able to claim compliance with the requirements of §20.18(h). On a blended average, given the higher 911 call volume in dense urban areas, a nationwide carrier can meet the 67% and 95% accuracy levels, even if its accuracy in rural areas is far less.

FURTHER REVISED WAIVER REQUEST

In consideration of the foregoing developments, Petitioner-Small Carriers hereby revise their requested relief in the Waiver Petition, as amended by the First Supplement, as follows:

- Petitioner-Small Carriers request a stay of the accuracy thresholds of §20.18(h) of the Commission's rules until the later of December 31, 2011, or twelve months from receipt of a valid E911 Phase II request; and
- Petitioner-Small Carriers request an extension of the deadlines set forth in §20.18(g)(1) of the rules as follows: (g)(1)(i) = October 1, 2006; (g)(1)(ii) = December 31, 2006; (g)(1)(iii) = June 30, 2007; and (g)(1)(iv) = December 31, 2007.

If, as has already happened, the promises and schedules made by the equipment vendors are not kept and Petitioner-Small Carriers are unable to meet some portion(s) of the above revised

^{4/} Because the TA/NMR solution is a hybrid network/handset-based solution, it is unclear whether §20.18(h)(1), which is applicable to network-based technologies, or §20.18(h)(2), which

timetable due to causes beyond their control, which are documented in future interim reports, Petitioner-Small Carriers request the right to seek concomitant adjustments to the E911 waiver relief afforded.

CONCLUSION

Petitioner-Small Carriers remain committed to implementing E911 Phase II capability as soon as practicable. Petitioner-Small Carriers are currently planning to move to a new hybrid network/handset-based approach being developed by Nortel, as soon as the technology and equipment proves out and becomes available, assuming Petitioner-Small Carriers can secure the financing for same. The timetable proposed herein for implementation of E911 Phase II is reasonable in light of Nortel's progress with development of the TA/NMR technology, sufficient under the circumstances, and will serve the public interest.

Respectfully submitted,

**KEY COMMUNICATIONS, LLC and
KEYSTONE WIRELESS, LLC**

January 3, 2005

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is applicable to handset-based technologies, would apply.

EXHIBIT A

DECLARATION OF JAMES WILLIAMS

I, James Williams, hereby state, under penalty of perjury, as follows:

1. I am the E911/CALEA Liaison Officer for Key Communications, LLC ("Key"). Key is a small carrier who employs me to be responsible for compliance with E911 and CALEA requirements.

2. I have reviewed Key's "Second Supplement to Petition for Waiver of Deadlines for Implementation of Phase II E911 ("Second Supplement"). All facts set forth in the Second Supplement are true and correct.

Executed this 30th day of December, 2004.

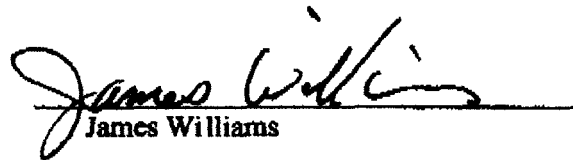

James Williams

EXHIBIT B**DECLARATION OF JIM STEC**

I, Jim Stec, hereby state, under penalty of perjury, as follows:

1. I am the E911/CALEA Liaison Officer for Keystone Wireless, LLC ("Keystone"). Keystone is a small carrier who employs me to be responsible for compliance with E911 and CALEA requirements.

2. I have reviewed the Keystone's "Second Supplement to Petition for Waiver of Deadlines for Implementation of Phase II E911 ("Second Supplement"). All facts set forth in the Second Supplement are true and correct.

Executed this 30 day of December, 2004.



Jim Stec